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6

7 **UNITED STATES DISTRICT COURT**  
8 **CENTRAL DISTRICT OF CALIFORNIA**  
9

10 SAM BENFORD,

11 Plaintiff,

12 vs.  
13

14 DAMODER P. REDDY, AS TRUSTEE  
15 OF THE PATI FAMILY TRUST; and  
16 DOES 1 to 10,  
17 Defendants.  
18  
19  
20  
21  
22  
23

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR DENIAL  
OF CIVIL RIGHTS OF A DISABLED  
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES;
2. CALIFORNIA'S UNRUH CIVIL RIGHTS ACT;
3. CALIFORNIA'S DISABLED PERSONS ACT;
4. CALIFORNIA HEALTH & SAFETY CODE;
5. NEGLIGENCE

24  
25 Plaintiff SAM BENFORD ("Plaintiff") complains of Defendants DAMODER P.  
26 REDDY, AS TRUSTEE OF THE PATI FAMILY TRUST; and DOES 1 to 10  
27 ("Defendants") and alleges as follows:  
28 //

**PARTIES**

1  
2 1. Plaintiff is a California resident with a physical disability. Plaintiff is  
3 hemiplegic due to stroke, and requires the use of a wheelchair at all times when traveling  
4 in public.

5 2. Defendants are, or were at the time of the incident, the real property owners,  
6 business operators, lessors and/or lessees of the real property for an antique store  
7 (“Business”) located at or about 526 Pier Ave., Hermosa Beach, California.

8 3. The true names and capacities, whether individual, corporate, associate or  
9 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
10 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
11 Court to amend this Complaint when the true names and capacities have been  
12 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such  
13 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
14 Plaintiff for the acts herein alleged.

15 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
16 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
17 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
18 the things alleged herein was acting with the knowledge and consent of the other  
19 Defendants and within the course and scope of such agency or employment relationship.

20 5. Whenever and wherever reference is made in this Complaint to any act or  
21 failure to act by a defendant or Defendants, such allegations and references shall also be  
22 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
23 and severally.

24 **JURISDICTION AND VENUE**

25 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
26 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
27 *seq.*)  
28



standards. Defendants failed to maintain the mark on the space with the International Symbol of Accessibility.

14. These barriers and conditions denied Plaintiff the full and equal access to the Business and caused him difficulty and frustration. Plaintiff wishes to patronize the Business, however, Plaintiff is deterred from visiting the Business because his knowledge of these violations prevents him from returning until the barriers are removed.

15. Based on the violations, Plaintiff alleges, on information and belief, that there are additional barriers to accessibility at the Business after further site inspection. Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

16. In addition, Plaintiff alleges, on information and belief, that Defendants knew that particular barriers render the Business inaccessible, violate state and federal law, and interfere with access for the physically disabled.

17. At all relevant times, Defendants had and still have control and dominion over the conditions at this location and had and still have the financial resources to remove these barriers without much difficulty or expenses to make the Business accessible to the physically disabled in compliance with ADDAG and Title 24 regulations. Defendants have not removed such barriers and have not modified the Business to conform to accessibility regulations.

### **FIRST CAUSE OF ACTION**

#### **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

18. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation. *See* 42 U.S.C. § 12182(a).

1           20.   Discrimination, *inter alia*, includes:

- 2           a.     A failure to make reasonable modification in policies, practices, or  
3                 procedures, when such modifications are necessary to afford such  
4                 goods, services, facilities, privileges, advantages, or accommodations  
5                 to individuals with disabilities, unless the entity can demonstrate that  
6                 making such modifications would fundamentally alter the nature of  
7                 such goods, services, facilities, privileges, advantages, or  
8                 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 9           b.     A failure to take such steps as may be necessary to ensure that no  
10                individual with a disability is excluded, denied services, segregated or  
11                otherwise treated differently than other individuals because of the  
12                absence of auxiliary aids and services, unless the entity can  
13                demonstrate that taking such steps would fundamentally alter the  
14                nature of the good, service, facility, privilege, advantage, or  
15                accommodation being offered or would result in an undue burden. 42  
16                U.S.C. § 12182(b)(2)(A)(iii).
- 17           c.     A failure to remove architectural barriers, and communication barriers  
18                that are structural in nature, in existing facilities, and transportation  
19                barriers in existing vehicles and rail passenger cars used by an  
20                establishment for transporting individuals (not including barriers that  
21                can only be removed through the retrofitting of vehicles or rail  
22                passenger cars by the installation of a hydraulic or other lift), where  
23                such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 24           d.     A failure to make alterations in such a manner that, to the maximum  
25                extent feasible, the altered portions of the facility are readily  
26                accessible to and usable by individuals with disabilities, including  
27                individuals who use wheelchairs or to ensure that, to the maximum  
28                extent feasible, the path of travel to the altered area and the

1                   bathrooms, telephones, and drinking fountains serving the altered  
2                   area, are readily accessible to and usable by individuals with  
3                   disabilities where such alterations to the path or travel or the  
4                   bathrooms, telephones, and drinking fountains serving the altered  
5                   area are not disproportionate to the overall alterations in terms of cost  
6                   and scope. 42 U.S.C. § 12183(a)(2).

7           21.   Where parking spaces are provided, accessible parking spaces shall be  
8   provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every  
9   eight accessible spaces, but not less than one, shall be served by an access aisle 96 in  
10   (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA  
11   Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall  
12   be van parking space. 2010 ADA Standards § 208.2.4.

13           22.   Under the ADA, the method and color of marking are to be addressed by  
14   State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California  
15   Building Code (“CBC”), the parking space identification signs shall include the  
16   International Symbol of Accessibility. Parking identification signs shall be reflectorized  
17   with a minimum area of 70 square inches. Additional language or an additional sign  
18   below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A  
19   parking space identification sign shall be permanently posted immediately adjacent and  
20   visible from each parking space, shall be located with its centerline a maximum of 12  
21   inches from the centerline of the parking space and may be posted on a wall at the  
22   interior end of the parking space. *See* CBC § 11B-502.6, *et seq.* 23. Here, Defendants  
23   failed to properly maintain the access aisles as there were faded “NO PARKING” and  
24   faded blue lines painted on the parking surface.

25           23.   Moreover, an additional sign shall be posted either in a conspicuous place at  
26   each entrance to an off-street parking facility or immediately adjacent to on-site  
27   accessible parking and visible from each parking space. The additional sign shall not be  
28   less than 17 inches wide by 22 inches high. The additional sign shall clearly state in

1 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in  
2 designated accessible spaces not displaying distinguishing placards or special license  
3 plates issued for persons with disabilities will be towed always at the owner’s expense...”

4 *See* CBC § 11B-502.8, *et seq.*

5 24. Here, Defendants failed to provide required signs stating “Minimum Fine  
6 \$250” and “Van Accessible.”

7 25. The surface of each accessible car and van space shall have surface  
8 identification complying with either of the following options: The outline of a profile  
9 view of a wheel chair with occupant in white on a blue background a minimum 36” wide  
10 by 36” high (914 mm x 914 mm). The centerline of the profile view shall be a maximum  
11 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the  
12 length of the parking space and its lower side or corner aligned with the end of the  
13 parking space length or by outlining or painting the parking space in blue and outlining  
14 on the ground in white or a suitable contrasting color a profile view of a wheel chair with  
15 occupant. *See* CBC § 11B-502.6.4, *et seq.*

16 26. Here, Defendants failed to maintain the mark on the space with the  
17 International Symbol of Accessibility as required.

18 27. For the parking spaces, access aisles shall be marked with a blue painted  
19 borderline around their perimeter. The area within the blue borderlines shall be marked  
20 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
21 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall  
22 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
23 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
24 11B-502.3.3.

25 28. Here, Defendants failed to properly maintain the access aisles as there were  
26 no “NO PARKING” and faded blue lines painted on the parking surface.

27 29. Under the 1991 Standards, parking spaces and access aisles must be level  
28 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.



1 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles  
 2 shall be part of an accessible route to the building or facility entrance and shall comply  
 3 with 4.3. Two accessible parking spaces may share a common access aisle. Parked  
 4 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces  
 5 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all  
 6 directions. 1991 Standards § 4.6.3.

7 30. Here, the access aisles are not level with the parking spaces. Under the 2010  
 8 Standards, access aisles shall be at the same level as the parking spaces they serve.  
 9 Changes in level are not permitted. 2010 Standards § 502.4. “Access aisles are required  
 10 to be nearly level in all directions to provide a surface for transfer to and from vehicles.”  
 11 2010 Standards § 502.4 Advisory. *Id.* No more than a 1:48 slope is permitted.  
 12 features of facilities and equipment that are required to be readily accessible to and usable  
 13 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

14 31. By failing to maintain the facility to be readily accessible and usable by  
 15 Plaintiff, Defendants are in violation of Plaintiff’s rights under the ADA and its related  
 16 regulations.

17 32. The Business has denied and continues to deny full and equal access to  
 18 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
 19 discriminated against due to the lack of accessible facilities, and therefore, seeks  
 20 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
 21 by individuals with disabilities.

## 22 **SECOND CAUSE OF ACTION**

### 23 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

24 33. Plaintiff incorporates by reference each of the allegations in all prior  
 25 paragraphs in this complaint.

26 34. California Civil Code § 51 states, “All persons within the jurisdiction of this  
 27 state are free and equal, and no matter what their sex, race, color, religion, ancestry,  
 28 national origin, disability, medical condition, genetic information, marital status, sexual



1 orientation, citizenship, primary language, or immigration status are entitled to the full  
 2 and equal accommodations, advantages, facilities, privileges, or services in all business  
 3 establishments of every kind whatsoever.”

4 35. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,  
 5 or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable  
 6 for each and every offense for the actual damages, and any amount that may be  
 7 determined by a jury, or a court sitting without a jury, up to a maximum of three times the  
 8 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any  
 9 attorney’s fees that may be determined by the court in addition thereto, suffered by any  
 10 person denied the rights provided in Section 51, 51.5, or 51.6.

11 36. California Civil Code § 51(f) specifies, “a violation of the right of any  
 12 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)  
 13 shall also constitute a violation of this section.”

14 37. The actions and omissions of Defendants alleged herein constitute a denial  
 15 of full and equal accommodation, advantages, facilities, privileges, or services by  
 16 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
 17 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
 18 51 and 52.

19 38. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
 20 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
 21 damages as specified in California Civil Code §55.56(a)-(c).

### 22 **THIRD CAUSE OF ACTION**

#### 23 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

24 39. Plaintiff incorporates by reference each of the allegations in all prior  
 25 paragraphs in this complaint.

26 40. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be  
 27 entitled to full and equal access, as other members of the general public, to  
 28 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,

1 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,  
2 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
3 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
4 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
5 places of public accommodations, amusement, or resort, and other places in which the  
6 general public is invited, subject only to the conditions and limitations established by  
7 law, or state or federal regulation, and applicable alike to all persons.

8 41. California Civil Code § 54.3(a) states, "Any person or persons, firm or  
9 corporation who denies or interferes with admittance to or enjoyment of public facilities  
10 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an  
11 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for  
12 the actual damages, and any amount as may be determined by a jury, or a court sitting  
13 without a jury, up to a maximum of three times the amount of actual damages but in no  
14 case less than one thousand dollars (\$1,000) and any attorney's fees that may be  
15 determined by the court in addition thereto, suffered by any person denied the rights  
16 provided in Section 54, 54.1, and 54.2.

17 42. California Civil Code § 54(d) specifies, "a violation of the right of an  
18 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also  
19 constitute a violation of this section, and nothing in this section shall be construed to limit  
20 the access of any person in violation of that act.

21 43. The actions and omissions of Defendants alleged herein constitute a denial  
22 of full and equal accommodation, advantages, and facilities by physically disabled  
23 persons within the meaning of California Civil Code § 54. Defendants have  
24 discriminated against Plaintiff in violation of California Civil Code § 54.

25 44. The violations of the California Disabled Persons Act caused Plaintiff to  
26 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
27 statutory damages as specified in California Civil Code §55.56(a)-(c).

28 //

**FOURTH CAUSE OF ACTION**

**CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

45. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

46. Plaintiff and other similar physically disabled persons who require the use of a wheelchair are unable to use public facilities on a “full and equal” basis unless each such facility is in compliance with the provisions of California Health & Safety Code § 19955 et seq. Plaintiff is a member of the public whose rights are protected by the provisions of California Health & Safety Code § 19955 et seq.

47. The purpose of California Health & Safety Code § 1995 et seq. is to ensure that public accommodations or facilities constructed in this state with private funds adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. The code relating to such public accommodations also require that “when sanitary facilities are made available for the public, clients, or employees in these stations, centers, or buildings, they shall be made available for persons with disabilities.

48. Title II of the ADA holds as a “general rule” that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of goods (or use), services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a). Further, each and every violation of the ADA also constitutes a separate and distinct violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an award of damages and injunctive relief pursuant to California law, including but not limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

**FIFTH CAUSE OF ACTION**

**NEGLIGENCE**

49. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.



**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: May 17, 2022

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim  
Jason J. Kim, Esq.  
Attorneys for Plaintiff